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### REMARKS

Reconsideration of the application as amended is requested.

Applicants have enclosed herewith formal drawings for the present application. Formal approval of the drawings is respectfully requested.

In the Office Action dated November 10, 2003, claims 7-10 were rejected under 35 U.S.C. §102(b) as being anticipated by Fox et al. Patent No. 5,606,919. Claims 13-16, 19-24, 32 and 33 were rejected under 35 U.S.C. §102(a) as being anticipated by Rothschild Patent No. 6,023,896. Claims 25 and 26 were rejected under 35 U.S.C. §102(a) as being anticipated by Chau et al. Patent No. 6,101,773. Claims 11 and 27-33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rothschild '896 in view of Mixer Patent No. 758,088. Applicants respectfully submit that all of the pending claims are allowable over the cited references for those reasons set forth in more detail below.

Independent claim 7 recites a partition including a partition frame having a horizontally extending upper frame member defining an upper edge of the partition frame. The partition frame further includes a pair of horizontally spaced apart vertical frame members. Each of the vertical frame members defines a first cross-sectional shape, and has an upper end secured to the upper frame member. The partition frame has a lower portion configured to abuttingly support the partition frame freestanding on a floor surface. The partition includes a horizontally extending raceway defining an elongated passageway configured to retain utility lines in a horizontally extending manner. A vertically extending support member includes a connector connected to the partition frame. The support member supports the raceway vertically spaced above the upper frame member. The support member defines a second cross-sectional shape that is different than the first cross-sectional shape of the vertical frame members.

Fox '919 (Fig. 13) discloses a post assembly 11' including a post member 16'. However, Fox '919 does not disclose a vertical frame member defining a first cross-sectional shape and a vertically extending support member defining a second cross-sectional shape that is different than the first cross-sectional shape. Accordingly, Fox '919 cannot anticipate amended claim 7 for this reason alone.

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Furthermore, claim 7 recites that the vertically extending support member includes a connector connected to the partition frame. Fox '919 indicates that "the post has a further set of intermediate openings designated 32' which are closed by the covers 34'. This latter set of openings 32' can also be provided with a rail either a power rail 12 or a communication rail 13." Column 11, lines 61-64. Applicants submit that the opening 32' of Fox '919 is not a connector connected to a partition frame as recited in claim 7, such that the rejection of claim 7 is improper, and should be withdrawn.

Claims 8-10 depend from claim 7, and are therefore believed to be allowable for those reasons set forth above with respect to claim 7.

Claim 13 recites a freestanding partition system including a first partition frame having a first side edge and including a lower portion configured to abuttingly support the first partition frame freestanding on a floor surface. The first partition frame has a horizontal upper edge. The partition system further includes a second partition frame having a second side edge connected to the first side edge and a lower portion configured to abuttingly support the second partition frame freestanding on a floor surface. The second partition frame has a horizontal upper edge. The first and second partition frames have different heights such that the upper edges are positioned at different elevations when the first and second partition frames are positioned at substantially the same height on a generally flat floor surface. The partition system includes an elongated horizontal elevated raceway configured to support horizontally extending utility lines at a generally uniform elevation. The raceway includes a support member connected to a selected one of the first and second partition frames and supporting the raceway vertically spaced above the upper edges of the first and second partition frames at a generally uniform elevation when the first and second partition frames are positioned on a generally flat floor surface.

The elevated raceway of the present invention allows the raceway to route wires at the same vertical height over partition frames having different heights (see e.g., Fig. 2). In contrast, the panel units 12 shown in Rothschild '896 are of the same height, and the extension elements 52 telescope to accommodate different floor-to-ceiling heights. Thus, Rothschild

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'896 cannot possibly anticipate claim 13 for this reason alone. In fact, Rothschild '896 teaches that,

Clearly, the height of the upper panel opening varies according to the position of telescopic extension elements 52 as may be seen by comparing Figs. 19A-19C. An upper panel 58 (see Fig. 2) must therefore be sized appropriately for each floor-to-ceiling height. However, it will be noted that all other components of the system are of standard design, thus allowing near-complete installation with standard mass-produced components and without requiring any prior measurement of the site to be fitted.

Column 7, lines 53-61 (emphasis added). Thus, Rothschild '896 teaches different heights of upper panels, with standard height lower panel units (see, e.g., Figs. 19A-19C). Rothschild '896 is therefore directly contrary to the arrangement of claim 13. Applicants reiterate that the elevated raceway of claim 13 extends at the same elevation across partition frames having different heights, and Rothschild '896 does not in any way disclose or suggest such an arrangement.

Claims 14-16 and 19-24 depend from claim 13, and are therefore believed to be allowable for those reasons set forth above with respect to claim 13.

Independent claim 32 recites, among other features, a partition including a partition frame having a horizontally extending upper frame member defining an upper edge of the partition frame. The partition frame further includes a pair of horizontally spaced apart vertical frame members, each having an upper end thereof secured to the upper frame member. The partition frame has a lower portion configured to abuttingly support the partition frame freestanding on a floor surface. The partition includes a horizontally extending raceway defining an elongated passageway configured to retain utility lines in a horizontally extending manner, and a vertically extending support member connected to the horizontally extending upper frame member of the partition frame at a location that is horizontally spaced from the vertical frame members. The vertically extending support member supports the raceway on the upper frame member vertically spaced above the upper frame member.

As an initial matter, Applicants point out that Rothschild '896 does not include a vertically extending support member supporting a raceway and connected to a horizontally extending upper frame member as recited in claim 32, such that Rothschild '896 cannot anticipate claim 32 for this reason alone. The extension elements 52 of Rothschild '896 discloses a key element 55 that is insertable and lockable by rotation within keyhole slots 57 in extension elements 52 (Fig. 13). Thus, the telescopic extension elements 52 are mounted to the vertical frame elements 18, 20. Substantial modification of Rothschild '896 would be required to mount the telescoping extension elements 52 to the horizontal frame element 16, and Rothschild '896 does not disclose or suggest such modification.

Furthermore, claim 32, as amended, recites that the vertically extending support member is connected to the horizontally extending upper frame member at a location that is horizontally spaced from the vertical frame members. In contrast, telescoping members 52 of Rothschild '896 are directly above the vertical frame elements 18, 20 to provide for telescoping adjustment to accommodate different floor-to-ceiling heights. Applicants submit that there would be no reason to modify Rothschild '896 to include the arrangement recited in claim 32.

Claim 33 depends from claim 32, and is therefore believed to be allowable for those reasons set forth above with respect to claim 32.

Independent claim 25 has been amended to recite a partition frame including a vertical frame member having opposite side faces, each side face including a vertical row of openings. The recited arrangement includes a clip for routing and retaining utility lines along the vertical frame member. The clip includes a pair of extensions extending inwardly towards one another and received within selected ones of the openings on the opposite side faces.

Chau 6,101,773 does not disclose any such arrangement. As an initial matter, the hooks 68 of Chau '773 do not extend inwardly towards one another, such that Chau '773 cannot possibly anticipate claim 25 for this reason alone. Furthermore, claim 25, as amended, recites that the vertical rows of slots are on opposite side faces of the vertical frame member, and that the extensions are received within selected ones of the openings on the opposite side faces. In contrast, the slots 50 of Chau '773 are in the same side face. Substantial

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modification of Chau '773 would be required to provide the arrangement of claim 25, and the reference itself does not teach or suggest any such modification.

Claim 26 depends from claim 25, and is therefore believed to be allowable for those reasons set forth above with respect to claim 25.

Claim 11 has been amended as to form, but the scope of claim 11 has not been changed. Claim 11 recites, among other features, vertically extending first and second support members, each including a connector connected to the partition frame and wherein the first and second support member support a raceway vertically spaced above the upper frame member. The first and second vertically extending support members each include a vertically elongated opening therethrough. The recited arrangement includes a sheet extending vertically above an upper frame member, the sheet disposed within the vertically elongated openings of the vertically extending first and second support members.

Claim 27 is somewhat similar to claim 11, and recites a rectangular partition frame and a pair of vertical extension members, each having a vertically elongated opening therethrough. The partition panel includes a sheet extending upwardly above the upper edge of the partition frame, and disposed within the vertically elongated openings to retain the sheet in a vertically extending configuration.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. MPEP 2143; *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicants have reviewed Rothschild '896 and Mixer '088, and can find no suggestion or motivation in the references themselves to combine the references. To the extent the Examiner is relying upon knowledge generally available to one of ordinary skill in the art, Applicants respectfully request the Examiner articulate that knowledge and place it on the record. *See In*

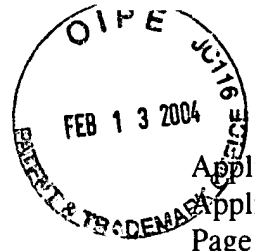
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*re Lee*, 277 F.3d 1338, 1345, 61 USPQ2d 1430, 1433-35 (Fed. Cir. 2002). (When an examiner relies on general knowledge to negate patentability, that knowledge must be articulated and placed on the record.) *See also In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Applicants note that Mixer '088 states that "the object of this invention is to produce a substantial metallic frame for holding signs, susceptible of being transported in a knock-down position to the place where it is to be set up, also provide [sic] an opportunity of conveniently removing the signs from frame and replacing others." Column 1, lines 8-14. A channel-bar 12 holds the panels 11 from being removed from the frame without authority. Thus, Mixer '088 teaches a portable frame for signs, and Applicants can find no teaching or suggestion to combine the portable sign of Mixer '088 with the modular partition of Rothschild '896. Applicants note that it is impermissible within the framework of §103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art. *In re Wesslau*, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965); see also *In re Mercer*, 515 F.2d 1161, 1165-66, 185 USPQ 774, 778 (CCPA 1975). The height of the upper panel of Rothschild '896 is adjustable to account for different floor-to-ceiling heights. In contrast, Mixer '088 does not disclose any structure for solving such a problem. Still further, with reference to Fig. 13 of Rothschild '896, it is not at all clear that the Mixer arrangement could be incorporated into Rothschild '896 without interfering with, for example, the keyhole slots 57 and/or key element 55 in a manner that would hinder the telescoping capability of Rothschild '896. Still further, if Rothschild '896 were modified to include a single upper panel, it would greatly change the overall appearance of the panel, and the reference itself does not in any way suggest such modification.

Claims 28-31 depend from claim 27, and are therefore believed to be allowable for those reasons set forth above with respect to claim 27.

Applicants have made a concerted effort to place the present application in condition for allowance, and a notice to this effect is earnestly solicited. In the event there are any



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remaining informalities, the courtesy of a telephone call to the undersigned attorney would be appreciated.

Respectfully submitted,

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2/10/04  
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